

**REMARKS**

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to the entry of this response, Claims 1-20 were pending in this application, of which Claims 1, 15, and 18 are independent. In the Final Office Action dated December 27, 2007, Claims 1-20 were rejected under 35 U.S.C. §103(a) and Claims 1, 15, and 18 were objected to. Following this response, Claims 1-9, and 11-20 remain in this application with Claim 10 being canceled without prejudice or disclaimer. Applicants hereby address the Examiner's rejections in turn.

I. **Objection to the Claims**

In the Final Office Action dated December 27, 2007, the Examiner objected to Claims 1, 15, and 18 as containing various informalities. Specifically, the Examiner states that "automatically switching between computer enabled input modes", as recited in the respective preambles of Claims 1, 15, and 18, only occurs if an auto switch mode is initiated. In addition, the Examiner states that, in selection-based and pen-based input modes, there is no automatic switching between the input modes. Applicants respectfully submit that, even though selection-based and pen-based modes do not internally switch from one input mode to another, an auto switch mode is provided to enable such switching functionality. Furthermore, Claims 1, 15, and 18 each recite selection-based and pen-based input mode actuation only when operatively associated with auto switching functionality. Accordingly, although Claims 1, 15, and 18 contain components that do not internally provide auto switching functionality, the components

are only claimed in operation with an auto switching mechanism. Consequently, Applicants respectfully request withdrawal of this objection to Claims 1, 15, and 18.

II. Rejection of Claims 1-2, 4-10, 12-21, and 23-24 Under U.S.C. § 103(a)

In the Final Office Action, the Examiner rejected Claims 1-4 and 15-16 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,365,461 ("*Stein*") in view of "Tracking Menus" by George Fitzmaurice, et al. ("*Fitzmaurice*"). In addition, the Examiner rejected Claims 5-14 and 17-20 as being unpatentable over *Stein* in view of *Fitzmaurice* and U.S. Patent No. 5,133,076 ("*Hawkins*"). Claims 1, 15, and 18 have been amended, and Applicants respectfully submit that the amendments overcome this rejection and add no new matter.

Amended Claim 1 is patentably distinguishable over the cited art for at least the reason that it recites, for example, "automatically unlatching the pen-based input device, in response to detecting the selection-based input from the selection-based input device, and actuating the selection-based input mode for the selection-based input device." Amended Claims 15 and 18 each includes a similar recitation. Support for these amendments can be found in the specification at least on page 9, lines 6-15.

In contrast, and as stated by the Examiner, *Stein* as modified by *Fitzmaurice* does not disclose selection-based and pen-based mode interchangeability. Consequently, *Stein* and *Fitzmaurice* cannot disclose automatically reverting back to auto switch mode operation from a selection-based and pen-based mode inter-latching.

Furthermore, *Hawkins* does not overcome *Stein's* and *Fitzmaurice's* deficiencies. For example, *Hawkins* merely discloses that when a stylus touches a screen overlay, the stylus transmits an overlay voltage magnitude to an overlay controller within a computer. (See col. 4, lines 60-63.) *Hawkins's* overlay controller then determines screen contact point coordinates. (See col. 4, lines 63-64.) Accordingly, in *Hawkins*, the stylus functions as an interactive pointer interface to programs being executed by the computer. (See col. 4, lines 64-66.) Nowhere in *Hawkins* does it disclose selection-based and pen-based mode interchangeability, much less automatically reverting back to auto switch mode operation from a selection-based and pen-based mode inter-latching. Consequently, *Hawkins* is silent regarding selection-based and pen-based mode interchangeability. Rather, *Hawkins* merely discloses a stylus operative as an interactive pointer interface.

Combining *Stein* with *Fitzmaurice* and *Hawkins* would not have led to the claimed invention because *Stein*, *Fitzmaurice*, and *Hawkins*, either individually or in combination, at least do not disclose “automatically unlatching the pen-based input device, in response to detecting the selection-based input from the selection-based input device, and actuating the selection-based input mode for the selection-based input device,” as recited by amended Claim 1. Amended Claims 15 and 18 each includes a similar recitation. Accordingly, independent Claims 1, 15, and 18 each patentably distinguishes the present invention over the cited art, and Applicants respectfully request withdrawal of these rejections of Claims 1, 15, and 18.

Dependant Claims 2-9, 11-14, 16-17, and 19-20 are also allowable at least for the reasons described above regarding independent Claims 1, 15, and 18, and by virtue of their dependency upon independent Claims 1, 15, and 18. Accordingly, Applicants respectfully request withdrawal of these rejections of dependent Claims 2-9, 11-14, 16-17, and 19-20.

### III. Conclusion

Applicants respectfully request that this Amendment After Final be entered by the Examiner, placing the claims in condition for allowance. Applicants respectfully submit that the proposed amendments of the claims do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants respectfully submit that the entry of the Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing, Applicants respectfully submit that the pending claims, as amended, are patentable over the cited references. The preceding arguments are based only on the arguments in the Final Official Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Final Official Action. The claims may include other elements that are not shown, taught,

or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

Please grant any extensions of time required to enter this amendment and charge any additional required fees to our Deposit Account No. 13-2725.

Respectfully submitted,  
MERCHANT & GOULD P.C.

P.O. Box 2903  
Minneapolis, MN 55402-0903  
404.954.5066

Date: May 27, 2008

/D. Kent Stier/  
D. Kent Stier  
Reg. No. 50,640

